

Request for Reconsideration

This Request is responsive to the Office Action dated September 7, 2007. A three month Extension of Time is provided herewith. Claim 2 has been cancelled; claims 1 and 3-6 are present for consideration.

1. Withdrawal of the previous rejection is noted with gratitude.
2. The new rejection should not have been made final. Claim 1 was rejected under -112-2 and the only amendment to claim 1 was to satisfy that rejection. In fact, the Examiner suggested "voltage" where applicant chose to use the word "power". The particular reference involved is Gyugyi et al, which does not suggest decreasing the current when increasing the voltage (or vice versa) so as not to alter the power: certainly, the only way Gyugyi et al could add voltage is by adding power, and vice versa. In fact, the last sentence of the Abstract states that Gyugyi "adjusts the insertion voltage so as to optimize real power delivery to the utility distribution line." Therefore, the amendment fully meets the Examiner's suggestion and has not altered the issue of patentability one iota. The point is, the issue as to patentability did not change as a result of responding to the -112 rejection: the only thing that changed was the manner in which the Examiner bundled up the references so as to make a rejection, following the road map of this application.

MPEP 2144.03 D states *"If...a new ground of rejection is introduced by the examiner that is not necessitated by applicant's amendment of the claims, the rejection may not be made final. See MPEP § 706.07(a)."* (Emphasis added) In turn, MPEP 706.07(a) states *"A second or any subsequent action on the merits in any application...should not be made final if it includes a [new] rejection of any claim amended to include limitations which should reasonably have been expected to be claimed."* Therefore, withdrawal of the final rejection and a new Office Action on the merits is respectfully requested.

3-10. Claims 1, 2 and 3 are rejected as obvious over Jungreis '006 in view of Jungreis '124 and Gyugyi et al (Gyugyi). Claim 1 has been amended to include some of the matter of claim 2 and is now believed to be patentable.

Herewith is an Exhibit having two Figures, one identified as "REJECTION" and the other identified as "CLAIM 1 (AMENDED)". The Rejection figure is laid out essentially as Fig. 3 of Jungreis '006. At the bottom it includes the fuel cell and converter as a substitute for

the auxiliary generator, as provided in Jungreis '124. The converter/inverter and controller of Guygyi are shown in the block 12, in place of the UPS of Jungreis '006.

The Examiner is to be commended for his rather ingenious reconstruction of the rejection. However, it is hard to visualize one skilled in the fuel cell and related electronic arts, casting around for an improvement that would allow augmenting fuel cell output, to actually piece together the present rejection. It is earnestly contended that the rejection was formed by searching for ways to meet the language of claim 1 (as it was presented following the previous Office Action); it is believed that it would be incredible to be able to do so otherwise. Therefore, it is suggested that there is a fair portion of hindsight employed in achieving not only the present rejection, but the collection of references utilized in the present and the previous rejection. It is as if the search was "find this part", then "find that part", and then "find a bi-directional DC/AC" conversion mechanism to switch between the grid and the AC lines. It is requested that the Examiner consider carefully the degree to which hindsight played a part in selecting the three references for the present rejection and the previous rejection.

Claim 1 has been amended to clarify the relationship of all of the apparatus to the three-phase lines. As such, a block diagram of claim 1 shows the load attached to the three-phase lines, whereas in the rejection the load is attached to the bi-directional converter. It is clear that the three references, as construed and presented in the rejection, did not meet the language of original claim 2 and do not meet the language of claim 1 as amended to include elements of claim 2. Since claim 1, as amended, distinguishes over the references, withdrawal of the rejection on the three references and allowance of claim 1 is respectfully requested. Claim 3 depends from claim 1 and is patentable for the same reasons. Therefore, reconsideration and allowance of claims 1 and 3 over the three references is respectfully requested.

11-15. Claims 4 and 6 are rejected as obvious over the three previously cited references in further view of Hochgraf. Claims 4 and 6 depend from claim 1 and are patentable for the same reasons. Therefore, reconsideration and allowance of claims 4 and 6 over the four references is respectfully requested.

16-20. Claim 5 is rejected over the four previously mentioned references in further view of Early et al. Claim 5 depends from claim 1 and is patentable for the same reasons.

Therefore, reconsideration and allowance of claim 5 over the five references is respectfully requested.

To save the Examiner considerable time when this case is taken up, a short phone call is recommended should any issue herein still be unresolved. A few minutes on the phone could clarify a point, or result in a supplemental response which would further limit or dispose of issues. A five minute phone call can save the Examiner a lot of work. Such a phone call would be deeply appreciated.

Respectfully submitted,



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EXHIBIT